STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

September 8, 2014

Travis Kalanick
Uber
182 Howard St, #8
San Francisco, CA 94105

Dear Mr. Kalanick:

Uber recently announced its intent to offer a new transportation service known as UberPool[1]. According to the Uber blog site:

> "With UberPool, you share a ride—and split the cost—with another person who just happens to be requesting a ride along a similar route. [J]ust push the button like before and get a car in five minutes. When we find a match, we notify you of your co-rider's first name."

The blog further states that Uber launched the new service for private beta testing, and will further expand the testing on August 15. A recent blog at FORBES.com reports that Uber began beta testing in San Francisco, and quotes CEO Travis Kalanick as perhaps extending the beta to other areas across the Bay.

This week, TechCrunch published an article which indicates that UberPool beta tested the new product throughout August 2014 to 100,000 users, and is now providing the service within San Francisco[2]. And finally, Uber emailed launch notices which offer UberPool ride discounts through September 9, 2014 to Uber customers located within San Francisco.

Uber has not yet approached the Commission regarding the UberPool service, nor submitted a request to modify its existing permit as a Transportation Network Company (TNC) to provide service under a different business model. However, based on media reports and Uber's own blog site content, Uber's proposed transportation service violates existing California law, specifically Public Utilities (PU) Code Section 5401.

PU Code §5401 states:

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[1] http://blog.uber.com/uberpool?form=confirm#public and http://www.forbes.com/sites/markrogowsky/2014/08/05/uber-unveils-carpooling-as-its-assault-on-car-ownership-continues/

[2] http://techcrunch.com/2014/09/02/uberpool-launch-for-real/

> "Charges for the transportation to be offered or afforded by a charter-party carrier of passengers shall be computed and assessed on a vehicle mileage or time of use basis, or on a combination thereof. These charges may vary in accordance with the passenger capacity of the vehicle, or the size of the group to be transported. However, no charter-party carrier of passengers shall, directly or through an agent or otherwise, nor shall any broker, contract, agree, or arrange to charge, or demand or receive compensation, for the transportation offered or afforded that shall be computed, charged, or assessed on an individual-fare basis, except school bus contractors who are compensated by parents of children attending public, private, or parochial schools and except operators of round-trip sightseeing tour services conducted under a certificate subject to Section 5371.1, or a permit issued pursuant to subdivision (c) of Section 5384."

The section strictly prohibits a charter party carrier from charging passengers on an "individual-fare basis."

In accordance with §5401, the Commission has consistently found that charter party carriers cannot charge an individual fare when carrying multiple persons in a vehicle, and therefore, a person chartering a charter party carrier vehicle must have exclusive use of the vehicle.

The Commission lacks the flexibility to allow a transportation service that is contrary to the statute as approved by the Legislature. If Uber believes that § 5401 is outdated, it may petition the Legislature for a modification. Unless and until the Legislature modifies §5401, the Commission must enforce state law.

Sincerely,

Denise Tyrrell, Director
Safety and Enforcement Division

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